

REMARKS

The application has been amended to place the application in condition for allowance at the time of the next Official Action.

The specification is amended to remove the incorporation by reference statement at the end of the specification.

In addition, the specification is amended to provide that the present application was made on behalf of a joint research agreement.

Claims 1-13 are pending in the application. Applicants note with appreciation the indication of allowable subject matter in claim 2.

Claims 1 and 3-13 are rejected as unpatentable over ORII et al. 6,513,537 in view of MA et al. 5,783,101 and further in view of MIKAMI et al. 6,197,733. This rejection is respectfully traversed.

35 USC §103(c)(1) provides: "Subject matter developed by another person which qualifies as prior art only under one or more of subsections (e), (f) and (g) of §102 of this title, shall not preclude patentability under the section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person."

35 USC §103(c)(2) further provides: "For the purposes of this subsection, subject matter developed by another person and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person if:

(A) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;

(B) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

(C) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement."

As to the requirements under 35 USC §103(c)(1), ORII et al. was filed on November 1, 2000 and issued as a patent on February 4, 2003. The present application was filed on July 10, 2003. Accordingly, ORII was not published more than one year prior to the filing date of the present application and thus §102(b) does not apply.

The present application claims priority to Japanese Patent Application No. 2002-200849 filed on July 10, 2002, which predates ORII's patent date. In order to perfect applicants' claim to priority and disqualify ORII under §102(a), a verified English translation of the above Japanese priority document is

being prepared, and will be forwarded to the Examiner immediately upon receipt by the undersigned.

Accordingly, ORII is available if at all only under 35 USC §102(e) and thus the requirement under 35 USC §103(c)(1) as to this item is believed met.

As to 35 USC §103(c)(2), applicants submit herewith a statement in support of the joint research agreement providing that the claimed invention was made on or behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made and that the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement to fulfil the requirements of 35 USC §103(c)(2)(A) and (B). To satisfy the requirements of 35 USC §103(c)(2)(C), the application is amended to disclose the names of the parties to the joint research agreement. Accordingly, the requirements under 35 USC §102(c)(2) are met.

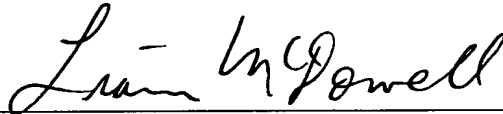
Based on the above, applicants believe that the requirements under 35 USC §103(c) are met and that 35 USC §103(c) bars application of ORII et al. as part of an obviousness rejection.

Accordingly, since ORII et al. was applied against each of the claims, claims 1-13 are believed patentable over the cited prior art. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

A handwritten signature in cursive script that reads "Liam McDowell". The signature is written in dark ink and is positioned above a horizontal line.

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APPENDIX:

The Appendix includes the following item:

- Statement in Support of Joint Research Agreement